

Joseph L. Mizzoni
Name

#68549
Prison Number

ELY STATE PRISON, PO BOX 1989, ELY, NV. 89301
Place of Confinement

FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
OCT 01 2015	
CLERK US DISTRICT COURT	
DISTRICT OF NEVADA	
BY: <u>TS</u>	DEPUTY

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JOSEPH L. MIZZONI
Plaintiff,

3:15-cv-00499

vs.

CASE NO. _____
(To be supplied by the Clerk)

STATE OF NEVADA, EX. REL. NEVADA DEPARTMENT

OF CORRECTIONS, ET. AL. 1) NOX C. SMITH,

**CIVIL RIGHTS COMPLAINT
PURSUANT TO
PURSUANT TO 42 U.S.C. § 1983**

2) NOX LT. BRANNON, 3) WARDEN MS LISA WALSH,

4) WARDEN MR BACA, 5) ASSISTANT NOX DIRECTOR

JURY TRIAL DEMANDED

EE MUDANTEZ, 6) DIRECTOR NOX MR COX

Defendant(s).

A. JURISDICTION

1) This complaint alleges that the civil rights of
Plaintiff, JOSEPH L. MIZZONI

(print Plaintiffs name)

who presently resides as ELY STATE PRISON, PO BOX 1989, ELY, NEVADA. 89301, were
(mailing address or place of confinement)

violated by the actions of the below named individuals which were directed against

Plaintiff at MINC PRISON, PO BOX 7000, CARSON CITY, NV. 89401-7000 on the following dates
(institution/city where violation occurred)

8th Amendment 3-28-15 TO 1st Amendment 3-28-15 TO, and 14th Amendment 3-28-15 TO
ON GOING ON GOING ON GOING
(Count 1) (Count 2) (Count 3)

(+)

**Make a copy of this page to provide the below
information if you are naming more than five (5) defendants**

1) Defendant MR C. SMITH resides at NNCC PRISON, PO BOX 7000, CARSON CITY, NV 89701-7000
(full name of second defendant) (address of second defendant)

and is employed as Corrections Officer for (NDOC), This defendant is sued in (his) her
(defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was
acting

under color of law: He worked as a Corrections Officer at NNCC Prison in Unit 5 and had full control of the Unit 5 on 3-28-15 in Unit 5. OFFICERS REPORT COMPLAINT.

2) Defendant MR BRANNON (MAY BE MISSED) (LT) resides at NNCC PRISON, PO BOX 7000, CARSON CITY, NV 89701-7000
(full name of third defendant) (address of third defendant)

and is employed as LT (NDOC) HEARING OFFICER, This defendant is sued in (his) her
(defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was
acting

under color of law: WAS THE DISCIPLINARY HEARING OFFICER LT FOR MY 5-1-15

HEARING AND HANDED DOWN UNLAWFUL PUNISHMENT TO PLAINTIFF FOR 3-28-15 INCIDENT OF OFFICER C. SMITH REPORT.

3) Defendant MS LISA WALSH resides at NNCC PRISON, PO BOX 7000, CARSON CITY, NV 89701-7000
(full name of fourth defendant) (address of fourth defendant)

and is employed as WARDEN (NDOC) AND GRIEVANCE COORDINATOR, This defendant is sued in (his) her
(defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was
acting

under color of law: WAS THE WARDEN AT NNCC PRISON AND GRIEVANCE COORDINATOR AND

STANDED 2ND LARA GRIEVANCE TO PLAINTIFFS DISCIPLINARY APPEAL FOR 5-1-15 ON 3-28-15 INCIDENT REPORT C. SMITH AND LT. BRANNON. PUNISHMENT.

4) Defendant MR BACA resides at NNCC PRISON, PO BOX 7000, CARSON CITY, NV 89701-7000
(full name of fifth defendant) (address of fifth defendant)

and is employed as WARDEN (NDOC), This defendant is sued in (his) her
(defendant's position and title, if any)

under color of law: WAS THE WARDEN AT NNCC PRISON AND IS OFFICERS C. SMITH AND LT BRANNON SUPERVISOR FOR THE 5-1-15 DISCIPLINARY HEARING AND 3-28-15 C. SMITH REPORT INCIDENT.
AT NNCC PRISON.

☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was

acting under color of law: Active Assistant Director of Nevada Department of Corrections and

was responsible for Defendants C. Smith, LT. Brennan, Warden Wabnitz, Warden Pace in 5-1-15 Disciplinary Hearing
and Responsible for C. Smith 3-28-15 Report for Disciplinary and Punishment there of.

6) Defendant MR COX resides at NMC Prison, PO Box 7000, Carson City, NV 89702-7000
(full name of sixth defendant) (address of sixth defendant)

and is employed as Director of Prisons for Nevada Dept. of Corr., This defendant is sued in (his) her
(defendant's position and title, if any)

☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was
acting

under color of law: Active Director of Nevada Dept. of Corrections and was responsible for all
Defendants in case for the 5-1-15 Disciplinary Hearing procedures and Punishments there of.

7) Jurisdiction is invoked pursuant to 42 U.S.C. § 1343 (a) and 42 U.S.C. § 1983. If you wish to
assert jurisdiction under different or additional statutes, list them below.

- 1) under 11th Amendment All currently violated Plaintiff 8th and 14th Amendments Right and
Free for should not be allowed to invoke the 11th Amendment immunity.
- 2) 42 USC § 1976 Civil Rights Attorney Fees of 42 USC § 1988 and Plaintiff's Cost
- 3) § 242 USC covers part to a § 1983 Civil Rights Complaint
(Criminal counter part)

B. NATURE OF THE CASE

1) Briefly state the background of your case.

On 5-1-15 Plaintiff had a Nevada Dept. Corrections Disciplinary Hearing with myself
Joseph Mizzoni #68544, NDC LT. MR BRENNAN HEARSTAB OFFICER, AND Christopher Deagle #1010262 THE
(I requested Mr. Brennan)
"only witnesses allowed by my request were all present at this disciplinary hearing. During this hearing
LT Brennan (recorded all proceedings), Asked Plaintiff his response Plaintiff plead not guilty and
LT Brennan read plaintiff his mandatory rights to a possible criminal sanction. Plaintiff statement
was he didn't hit C. Smith on 3-28-15 and Plaintiff requested all witnesses and video to the
3-28-15 incident. LT Brennan denied all witnesses except Chris Deagle #1010262 my cell in cell 5B-29
At this time of incident. Mr Brennan would not allow my video requested, said there is no video-its official use
only. (There a video camera in Unit 5 A-B and C wings. Also at the front door entrance and back yard
entrance, and there was hand held video by C/O Sergeant Robertson as a Search and Escort officer and
on seen 3-28-15 During a part of incident)

B. NATURE OF THE CASE

(CONTINUED)

Witness information sent by C. SMITH (UNOC) officers report said there were inmates around us and the Rotunda was full of inmates which I have a Due process right under "Waltff" to be allowed all witness and video evidence to cross examine and marshall the facts of my accusers. (I was denied) He only allowed my celli Chris Deyale #1010262 and Mr Deyale #1010262 told what he saw to his ability from the area of the rotunda which is on 1 of 4 on the Displaying Form III under Witness Information. (I/M Mizzoni requested I/M Deyale #1010262 and I/M testimony was accepted as relevant and is as follows: Fox cops came in our house 5-B-29 and tore it apart. I know Joe was going to tell the cop that the house needs to be put together. When I came out Joe was on the wall. Cto Smith went to grab his arm and Joe said what are you doing. Cto Smith took him to the ground and said stop resisting. He then yelled for everyone to lock down. At this time other officers arrived and yelled lock down and I locked down.) Mr Deyale #1010262 testimony was ACCEPTED/RELEVANT. Not one time does Inmate Deyale state that Inmate Mizzoni struck or assaulted or battered including cussing at C. Smith (Chamac). And Mr Deyale stated on tape also that there were all kinds of other witnesses in Rotunda stating they saw the same thing and stated Scotty Cox a Inmate but none were allowed to testify as witness in behalf of the plaintiff or Defendant C. Smith in order to cross examine and or any of the several Cto came including C. Smith to this Hearing to rebut or cross examine any witnesses including MR Deyale #1010262 in which is a clear violation of plaintiff's constitutional right to the USCA. to be allowed witnesses as long as they are relevant and not a threat to institution and as the court can see MR Deyale #1010262 was allowed and relevant and was no threat to institution and neither was any of the other witnesses. Plaintiff wanted the video for evidence to determine (WHO) exactly was in the rotunda at the time of 8:09 AM on 3-28-15 to determine who to call for his Hearing and LT Brannon denied plaintiff all video and I was not allowed to see it. AR 707 PAGE 5 of 38 1.9. A qualified opportunity to call witnesses with substantive knowledge of issues and present documentary evidence.

(3-A)

B. NATURE OF THE CASE

(CONTINUED)

(18)

provided that to do so will not jeopardize institutional security or correctional goals. Mr Deyente was a inmate witness he was working yard later and MR Brannon LT called him on the intercom and could of did so for all other witnesses including C. Smith officers reporter. I should of been labeled "ALL WITNESSES" because officers report says Inmates in Rotunda ect., These were eye witnesses not here say. Plaintiff refers to Wolff v. McDonnell only to show violation. I prior to this disciplinary hearing wrote Ms Lisa Walsh Warden NMCC PRISON on a (VDOC) note on the date of 4-5-15 to ask her for all Inmates and video evidence here at Disciplinary Hearing and way before it, her response was "Add here to the process." she didn't. Also asked any and all pictures was denied all. There cameras every where on this yard but the night of incident? come on. they denied all. MR Brannon even asked plaintiff "what would this video do." I told him as said above and was still denied all and said its our policy not to show you video. I was charged for the following violations: MJ3 BATTERY; MJ2 ASSAULT; ABUSIVE LANGUAGE with only evidence STAFF REPORT. C/O LT. MR BRANNON states after all said above he finds Plaintiff guilty of Battery and drops the Assault and verbal cussing and does so only by C. Smith Staff Report. This is not enough to convict on this disciplinary and this Staff Report is a False Report against plaintiff. Plaintiff had witnesses and video to prove this and C. Smith nor any one else rebut my witnesses statement or have any witnesses himself to cross examine or back up his version of events, nor is it on the disciplinary reports or summary judgement or any CT. THEN C/O Hearing Officer Brannon states hes convicting plaintiff from prior ~~incidents~~ incidents as late as (8 years) ago and plaintiff is on new sentence. (1) incident was dismissed and the rest are in Federal court from C/Os At Elly prison assaulting plaintiff every time while he was hand cuffed and leg shackled and they did what they call "REVERSE" the charges to cover up those abuses. This Disciplinary C/O Brannon states all this on tape recording and its all punishment for prior acts which he is punishing plaintiff twice for those incidents ~~which~~ which he already served DS time for and he admits it on tape and hes not punishing plaintiff for this incident because (They Beat a mental Health Prisoner up - 112) (3-B)

B. NATURE OF THE CASE

(Continued)

he and this administration knows plaintiff did not hit C. Smith and they are retaliating for grievance complaints and prior lawsuits on there Director E.K. McDaniel and they say ~~that~~ he is the caller on this punishment. The disciplinary officer cannot convict plaintiff twice for the same crimes under the 5th and 14th Amendments and 8th Amendment as well for double Jeopardy clause. And its ironic C/O Brannen dismisses the Assault MJ2 and the abusive language 69 and sticks me with the Battery MJ3, how can you have a Battery without a assault or a incident to cause it like cussing as C/O Smiths reports says that all that triggered this incident and there for I shouldn't be guilty of a battery. He C/O Brannen gave me 12 years in a harsh and atypical hardship to Disciplinary Segregation without due processes of law and double jeopardy to that accused crime plaintiff proved by a preponderance of evidence and witness and the ones he was denied that he is not guilty of these crimes and he ~~finds~~ finds me guilty by 8 years ago incidents not the incident of 3-28-15 its on tape (which I will and did request All tapes and video for court on my disciplinary appeal for court evidence). Punishments on Summary Judgment states: 24 months D/S from 5-1-15 TO 5-1-17, Restitution unknown books frozen until amount determined and posted; STMT REF DAYS?; and Category A, criminal case possible. That was sanction on 5-1-15 plaintiff was never sanction for Stat time Credits or Restitution or criminal prosecution as recommended by C/O Brannen and now its 9-9-15 over (4 month) time laps in which is past all due process on any such punishment. And for further punishment which is a separate §1983 Civil Rights Case ~~after~~ Plaintiff's version is after C. Smith C/O tore plaintiff's cell up and say plaintiff only told C. Smith C/O that he quit his porter job and C. Smith C/O comes out the Unit bible WHAT THE FUCK DID YOU SAY? tells me to get against the wall I comply, he orders the whole units to lock down and I had my head turned towards the right of me and C. Smith with out warning grabs my left wrist as hard as he could and I reacted and swung around not knowing

(3-C)

B. NATURE OF THE CASE

(Continued)

It was this C/O, because there was still inmates around and I turned with my body towards the left caught myself seen it was E. Smith and I turned back towards the wall and I put my hands back up on window wall. (I am also blind out left eye with cataracts so that played a factor on who grabbed me) C. Smith then grabbed my some wrist and took me down to the ground, I landed side by side to him I was on his ~~left~~ Right side he was on my left side, I then went to my stomach crawled 1 foot and started cuff me up there. He jumped on me and cuffed me up and sat on me flat on my stomach, his other C/Os came in Unit 5, 3 or 4 on top of my legs and torso, and a unknown C/O possible John? put me in a choke hold then grabbed my head/neck area and said did you hit my C/O - you hit my C/O and slammed my head on the left side repeatedly to concrete floor and then grabbed my left side guts and dug his fingers into them and pulled, then push my left hand down on the ground and pushed and grinded my head/face on concrete floor. While while he or another C/O pushed my left knee down on the floor and pushed and grinded my knee in all to ~~knock~~ knock me out once and cause me severe pain and suffering and bleeding to face and knee. I was filmed by C/O Sergeant Robertson I saw her during the past. I was then lifted up to my feet dragged to the Unit 5 entrance where there's a visible top camera and the C/Os about (6) or so said with a cautious decision "Forward or Backwards"? And they all agreed Backwards, a C/O Senior I believe light tan shirt put me in a choke hold and they all dragged me across the prison yard me hitting huge curbs with my heels and this distance was 1/2 mile to the RMF Infirmary and this same C/O bent my thumb backwards and my wrist along with others on the way and broke both my wrists/hand areas because the hand cuffs were so tight much to inflict pain and cut off circulation against all 407. Upon getting to Infirmary I was dragged through two double doors to 9 exam Room.

(3-0)

B. NATURE OF CASE

(Continued)

Still pictures were took by Cto Robertson and another Cto of my injuries to my knee and head and cuts on my nut. I was only checked with a cursory exam I bled to knee, I bled to head/knee area that's it. No nothing else x-rays etc. I passed out during the dragging me across the yard once. I was then only escorted by 3 Ctos to unit 7-A-16 with out any incident which proves there was excessive force used prior. Plaintiff - scars, two broken nut, Concussion Scar, knee scar, neck broken or pop out etc. Plaintiff wrote his Disciplinary Appeal all this was said and reported and Plaintiff filed his appeal on 5-1-15 the very day he was sanctioned for his False Disciplinary for 3-28-15. He waited per AR 740 for 1 month and 2 days for a response (none), he then went ahead and filed his 2nd Level Grievance Appeal Form DOC 3094 on 6-17-15 and did a thorough explaining of all said above. The Grievance Coordinator D. Clark received my second Level Grievance on 6-18-15. Then on 7-18-15 WARDEN Lisa WILSH signed the 2nd Level Grievance and Plaintiff received it on 7-27-15 over a month after written that one, there was no response on Second Level Just a memo for 1st Level Response ~~NO~~ other documentation to go by so plaintiff assumed his appeal and what he said was honored and by law this would be the case no answer to a complaint or statement means they agree with plaintiff. Plaintiff then waited and around 7-11-15 he even filed another 1st level Appeal to make sure and on 7-27-15 he received this second level on his 1st Appeal Attempt and as said that's Grievance # 2006-29-99675. Later (DOC) at once tried to hit plaintiff with his 1st Level Attempt Appeal and say I now had to include my Summary Judgment in which for the record I complied to it and told them this issues been to close all ready. Plaintiff exposed all his remedies on timely bases and shouldn't wait for them to change there policies because of there response all ready. ~~Because~~ Because of this False Report by C. Smith I rec'd 2 years whole D/S (3-E)

B. NATURE OF CASE

(Continued)

time which include NO appliances for ever 60 Days you can get one but if it has batteries you can't have it. No visits except once a month 2 hours behind glass while your legs and hands are shackled (Illegal in its self), No Store except a limited cheap soap, lotion packs, shampo packs, envelops, stamps, rubber pens, pencil. That's it pretty much. Which all of these sanctions in its self are Illegal compared to ^(only comparing) ~~some~~ Sanctions vs. Conditions the whole D/S is not the same as GP at all. Also when I was last in D/S they didn't have this sanctions and nor have they changed the Administration Regulation Hand Book for AR 707 all though they ~~never~~ had times sign a AR to 707 8 years ago it was not revised in to AR 707 rules and regulation so in turn plaintiff assumed it was changed back to the original AR 707 rules as there stated. Plaintiff got a check out of these above sanctions added to a D/S sentence and no where is any of these stated in AR 707 (AR 707) rules hand book and to further a due when plaintiff was sanctioned to the 5-1-15 Disciplinary Sanctions that day the C/O Brannon never once said to plaintiff these are further sanctions on tape, paper, or in person to give plaintiff due process of law by telling him of such sanctions as further punishment to his sentence of D/S time nor did the C/Os or administration tell plaintiff of such up to date in 2015 that this AR 707 was revised and enforced. Also Plaintiff's Summary Judgment states 24 months D/S, Staff forfeiture possible, Criminal possible and resolution. "NO where" does it say additional due process for store loss, Visits limited, Appliance restrictions or any other property. on plaintiff's Summary Judgment 5-1-15 handed down which is a violation of 8th Amendment and 14th Amendment to due process of law, and plaintiff is even on a new sentence from 8 years ago. During my D/S time while at NCC Prison where I had the D/S sanctioned I was still allowed to order store All store including razors and nail clippers ~~from~~ From 5-1-15 to 7-10-15 over two months after my D/S sanctions were imposed and I received my appliances from 5-1-15 to 8-10-15 in till I went to Ely Prison and once here plaintiff was denied his appliances a month now by Ely Warden as well.

(200th of my Property was held in 5 months) (3-F) (They did not give a Due Process for my mental health's state

B. Nature of case

(continued.)

And because plaintiff was illegally-falsely accused and sanctioned by (DOC) defendants he lost his GP yard ^{privileges} of (1) Yard 3 times a week; (2) Band Room; (3) ^{Privileges} CHOR PROTECTOR for church; (4) Cularmy meals in cularmy; (5) Coffee shop privileges; (6) Law library privileges; (7) Contact visits for 8 hrs in visiting room; (8) NO Restraints on hands or feet; (9) Toss time in unit night/day; (10) Showers every day; (11) Canteen; (12) Reg. store; (13) All appliances; (14) moved from one institution ^{of} a medium yard to a super max yard locked down 24-7. (15) NO ^{Privileges} packages (16) Permal method treatment by my orthopedic Surgeon DR. Long tender his care for both my cast to see him or further treatment in emergency from my new. (17) Hardship for my family and lawyer to come here at my prison and not be able to consult me on a note case 3:11-cv-358 was for contract eye case and other GP related privileges amenities, and liberties. Also I was put on (HPR) High Post Prisoner from 3-28-15 to 7-10-15. For no reason, no due process hearing, no nothing the whole time and per (DOC) AR you spend to get a due process hearing when done to a higher level of custody. Also since never gave me actual due process that I was to be moved to a max prison nor does those processes say on paper, at my disciplinary hearing, or on tape in general, none was ever afforded to me none when they took me off (HPR) High Post prisoner was I given a hearing then which all violates the 14th Amendment. I won my appeal by (DOC) since Lisa Antish, Gena, Mcneel, Cox or any one else doing it or saying why I lost it or any other due process. I was allowed to confront these decisions of it on both levels and they signal it off to 2nd level Appeal form as enclosed in complaint. I should be compensated for punitive damages, compensatory damages, emotional damages, and true all my custody back at since prison and expenses of release. Plaintiff was singled out and treated different than other inmates because when C. Smith ordered to lock down and some didn't I was the only one to go to D's and be punished. (UNKNOWN) and past the time limit to do anything to such mistakes has passed but by not obeying a direct order is a major offense AR 707 (DOC) and no one was punished but me, against equal protection of laws to.

(3-6) (Plaintiff still D's illegally)

C. CAUSE OF ACTION

COUNT I

The following civil rights have been violated: 1st Amendment Congress shall make no law
respecting an establishments of religion, or prohibiting the free exercise thereof, or abridging
the freedom of speech, or press, or right of people peacefully to assemble and to petition the
Government for a redress of grievances.

Supporting Fact: [Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

DC SMITH Correctional officer on 3-28-15 violated my 1st Amend to USCA for
freedom of speech. He did so by using excessive force on me, False Disciplinary,
Attempt murder by ^{lying} to his partners to make them react to my beatings.
Sanctions of DS 24 months, ^{Restitution} ~~Restitution~~ Stat fine, and All Sanctions on
(NATURE OF THE CASE B.) PAGES ~~3~~ ³ to 3G) all because Plaintiff
said he quit his partner job in unit 5-Riviera And even if it were
true on his report ^(C. Smith) "Mizom said Show it up your ass) under AR 207
is only punishable by ^{verbal} ~~verbal~~ reprimand or (to) my work duty 69
Placed language. He prohibited me from free speech and by doing so
violated my 1st Amend rights. to use any force and more worse
Severe Excessive Force punishment with out due process of law.

COUNT II

The following civil rights have been violated: Amendment 8 - Excessive Bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Supporting Fact: [Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

All Defendants violated my 8th Amendment rights afforded to me by
severely
prisoning me without due process of law. C. Smith Cb on 3-28-15
did so by (B. NATURE OF CASE PAGES 3 to 3-6) as said on this complaint
and see (page 4) of this complaint to birth also..

NOC: LT BRENNER, WARDEN WALSH, WARDEN BOCA, ASSISTANT DIR. McDONNELL,
DIRECTOR Cox all violated my 8th Amendment rights by (B. NATURE OF CASE
Pages 3 to 3-6) and by participating, conspiring and ordering there
officers involved to do so and training all. Did so by being The Wardens, LT,
and Directors AT NEVADA DEPT. OF CORRECTIONS (NDOC) Prison in Carson City Nev.
on behalf of the (NDOC) AND ALL ITS OFFICERS, Directors, Employees Former
Employees, Agents, Predecessors, Boards, Panels, Directors, Successors,
Administrators, and assigns, Acting privately, Individually, or under color
of Authority at, or For the benefit of, (NDOC) or ITS OPERATIONS,
Including ITS operations Arising From or Relating to the Prisoner or
Delivery of medical Care to inmates of (NDOC) here in after,
NDOC Medical Care and protection to staff and inmates, and

(On my Door AT ELY 4-B-19 says
A Red 196 ASSAULT STAFF IS A
LIE.

(LWA Walsh signature
Signature is on Grievance #2006-29-99675)
2ND Level with Coordinator Clark J. Smith

Further Including any Person responsible for promulgating, Maintaining, Enforcing any Rules or Disciplinary's, Directives, regulations, (here after all such persons are collectively referred to as a Defendants and The State of Nevada for all prisoners at UNCC). For all Sanction imposed and a Hardship and atypical change in my ordinary prison GP time to A MAX Prison as said. (NO MENTAL HEALTH HORIZON TO PLAINIFF? After they beat a mental health person up.) They all violated 8th Amendment to USCA by cruel and unusual punishment and even after plaintiff was his Appeal Grievance attached which was signed by Grievance Coordinator D. Clark on 6-18-15 and then by NWP Warden Lisa Walsh on 7-13-15 and then by Plaintiff on 7-27-15 and the answering warden put nothing under upheld or denied and excepted plaintiff's version by not answering these areas of grievances and by law if nothing else is attached or in answer then the Defendants would be agreeing in full to Plaintiff's complaint/Appeal as the truth and stands in the (NDOC) 2nd Level Grievance level as said to attached Grievance # 2006-29-99675.

And instead of giving Plaintiff his relief they all gave plaintiff D/S 24 months, Restitution, Short Referral, Criminal sanctions possible. (See; B. NATURE OF CASE Page 3 to 36) to show cost the privileges, amenities, and liberty interest lost because of this failure to due process of law, and plaintiff still suffer this Hardship and Atypical Conditions compared to GP at NVCC minimum yard to a MAX yard lock down 24/7 at Ely Prison as said.

The defendants then tried to give plaintiff the 1st level grievance basis after this was above was ended on the appeal and wanted Plaintiff to resubmit again with new plaintiff's Summary Judgment from the Disciplinary. Plaintiff disagreed told on that grievance why as above and sent the Summary Judgment and response back to Defendants he has yet to see those response. The Defendants had adequate time and then tried to take two bites out of the apple of Appeal/legislatures. 5-A (Plaintiff should get automatic Summary Judgment)

(2)

COUNT III

The following civil rights have been violated: Amendment 14 All persons born or naturalized in the United States, and subjected to the residue. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the US; nor shall any state deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of laws.

Supporting Fact: [Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

All Defendants violated my 14th Amendment Rights to Due process and equal protection of the law and Double Jeopardy and Contrary to the 5th Amendment to not be punished twice for the same crime. Please see

(B. NATURE OF CASE Page 3 to 36) which all violates plaintiff's 14th and 5th Amendment Rights to the USCA from start to

finish and to avoid time and unnecessary reading (B. NATURE OF CASE) says all, it's all A Due Process violation under such laws. For C. Smith - False write up and sanctions for 3-28-15 and 5-1-15)

that followed. RT. B. Gannon - Disciplinary Hearing CIO 5-14-15 and all sanctions imposed there of with out witnesses and ^{video evidence} ~~under evidence~~ etc in

WARDEN WALSH AND DCA. Supervisors of all CIOs involved as said in (Nature of case Page 3 to 36) and allowing see (pages 5 to 5A) of

this complaint for leaders of abuses and all sanctions ^{on} plaintiff

Assistant Director McDaniel and Director Cox all the Head of NDOC and

every position to supervise and control see; (B. NATURE OF COMPLAINT / CASE)

Pages 3 to 36) and see; (Page 5 to 5A) of this complaint to further

Show supervision of all sanctions imposed on plaintiff as said

to save time for this Court to read repeatedly. No Mental Health Hearing After they Beat Plaintiff as Mental Health person to move from to A max Prison from ~~medium~~ ^{medium} Mental Health space.

D. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

- 1) Have you filed other actions in state or federal court involving the same or similar facts as involved in this action? ☒ Yes ☐ No. If the answer is "Yes", describe each lawsuit. (If more than one, describe the others on an additional page following the below outline)

- a) Defendants: The State of New York in Rel. to (NDOC) McDowell, Bryant, et al
 b) Name of court and docket number: # 3:11-cv-00186-LRH-WGC
 c) Disposition (for example was the case dismissed, appealed or is it still pending?):
It was dismissed by 9th Cir Court Appeals
 d) Issues raised: 8th and 14th Amendments for not allowing a Hearing at All.
 e) Approximate date it was filed: January 20, 2011
 f) Approximate date of disposition: Jan 2015

- 2) Have you filed an action in federal court that was dismissed because it was determined to be frivolous, malicious, or failed to state a claim upon which relief could be granted? ☒ Yes ☐ No. If your answer is "Yes", describe each lawsuit. (If you have had more than three actions dismissed based on the above reasons, describe the others on an additional page following the below outline).

Lawsuit #1 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: NDOC Blauvelt et al et al Prison
 b) Name of court and case number: # 3:07-cv-00008
 c) The case was dismissed because it was found to be (check one): ☒ frivolous:
☐ malicious or ☐ failed to state a claim upon which relief could be granted
 d) Issues raised: 1st, 4th, 5th, 6th, 8th and 14th Amendments to USCA
 e) Approximate date it was filed: 9-1-06
 f) Approximate date of disposition: 6-6-07

Lawsuit #2 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: _____
 b) Name of court and case number: _____

(29)

c) The case was dismissed because it was found to be (check one): _____ frivolous:
 _____ malicious or _____ failed to state a claim upon which relief could be granted

d) Issued raised: _____

e) Approximate date it was filed: _____

f) Approximate date of disposition: _____

Lawsuit #3 dismissed as frivolous, malicious, or failed to state a claim:

a) Defendants: _____

b) Name of court and case number: _____

c) The case was dismissed because it was found to be (check one): _____ frivolous:
 _____ malicious or _____ failed to state a claim upon which relief could be granted

d) Issued raised: _____

e) Approximate date it was filed: _____

f) Approximate date of disposition: _____

3) Have you attempted to resolve the dispute stated in this action by seeking relief from the proper administrative officials, e.g., have you exhausted available administrative grievance procedures? ☒ Yes ☐ No. If your answer is "No", did you not attempt administrative relief because the dispute involved the validity of a (1) _____ disciplinary hearing; (2) _____ state or federal court decision; (3) _____ state or federal law or regulation; (4) parole board decision; or (5) _____ other _____

If your answer is "yes", provide the following information. Grievance Number # 2016-29-99675

Date and institution where grievance was filed 1st Level Appeal 5-1-15 AND 2nd Level 6-17-15

Response to grievance: NO Response on the 1st level so plaintiff file 2nd level

Level gave back no Response to that level either

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E. REQUEST FOR RELIEF

I believe that I am entitled to the following relief:

1) Compensatory Relief of \$500,000 thousand Dollars

2) Punitive of \$500,000 thousand Dollars

3) Emotional Distress of \$ 500,000 thousand Dollars

Innocently 4) Injunction Relief Expunge Disciplinary off record for good put back in BP wire was Innocently

5) Give my first tire back? and restitution money back?

I understand that a false statement or answer to any question in this declaration will subject me to penalties of perjury. **I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT.** See 28 U.S.C. § 1746 and 18 U.S.C. § 1621.

Myself

(Name of person who prepared or helped prepare this complaint if not Plaintiff)

Joseph B. -

(Signature of Plaintiff)

9-10-15

(Date)

(Additional space if needed: identify what is being continued)

6) If correct cannot provide plaintiff with his medical states

Plaintiff ask to move to a person equal to, or out of state to
accommodate his action in this lawsuit as truth.

(31)

CERTIFICATE OF SERVICE BY MAIL

Pursuant to N.R.C.P. Rule 5 (b), I hereby certify that I am the petitioner/Defendant named herein and that on this 9th day of September 2015, I mailed a true a correct copy of the foregoing document to the following:

1) Clk of US Dist Court Nev.
Dist of Nevada
400 South Wynn St., Room 301
Reno, Nevada 89501

Joseph Lopez

2) Office of Attorney General
100 N. Carson Street
Carson City, NV. 8901-9717

3) Prank/Address Joseph Mironi #68519
Ely State Prison
PO Box 1989
Ely, NV, 89301

No Evidence
Release 1st Level Appeal
was race Related.

LOG NUMBER: _____

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**NEVADA DEPARTMENT OF CORRECTIONS
 SECOND LEVEL GRIEVANCE**

NAME: JOSEPH L. MIZZONI I.D. NUMBER: 68549

INSTITUTION: NVCC PRISON UNIT: 7-B-62

I REQUEST THE REVIEW OF THE GRIEVANCE, LOG NUMBER _____, ON THE SECOND LEVEL. THE ORIGINAL COPY OF MY GRIEVANCE AND ALL SUPPORTING DOCUMENTATION IS ATTACHED FOR REVIEW.

SWORN DECLARATION UNDER PENALTY OF PERJURY

INMATE SIGNATURE: Joseph L. Mizzi DATE: 6-17-15

WHY DISAGREE: Because I put in a Disciplinary Appeal in on 5-1-15
within the (15 day) Time limit of AR 707. This was for a incident
I was illegally charged for Assault, Battery, Abusive Language, in which it
has been well past the Grievance time limit to answer the 1st level grievance
and so in turn between that grievance and your Dept. not answering in a timely

GRIEVANCE COORDINATOR SIGNATURE: D. Clark DATE: 6/18/15

SECOND LEVEL RESPONSE: _____

____ GRIEVANCE UPHELD ____ GRIEVANCE DENIED ____ ISSUE NOT GRIEVABLE PER AR 740

SIGNATURE: _____ TITLE: _____ DATE: _____

GRIEVANCE COORDINATOR SIGNATURE: [Signature] DATE: 7/18/15

INMATE SIGNATURE: Joseph L. Mizzi DATE: 7-27-15

THIS ENDS THE FORMAL GRIEVANCE PROCESS

Original: To inmate when complete, or attached to formal grievance
 Canary: To Grievance Coordinator
 Pink: Inmate's receipt when formal grievance filed
 Gold: Inmate's initial receipt

(33)

**NEVADA DEPARTMENT OF CORRECTIONS
GRIEVANT'S STATEMENT CONTINUATION FORM**

NAME: Joseph Mizzoni I.D. NUMBER: 68549
 INSTITUTION: NVC Prison UNIT #: 7-B-62
 GRIEVANCE #: 2006-29-99675 GRIEVANCE LEVEL: 2nd Level
 GRIEVANT'S STATEMENT CONTINUATION: PG. 2 OF 2

Manner per AR 740. I would now ask that all my (NDC) Disciplinary be dismissed in the entirety and expunged of my Disciplinary record permanently, and I be released out of Disciplinary Segregation, back to the NVC prison yard in Unit 2 where I was. I stand by my 1st Level Grievance on this 2nd Level Grievance. If not this would move me to one where I can be mentally treated and do my time without false Disciplinary and harassment and unjust punishment related to the 8th Amendment to the U.S.A. of Cruel and Unusual punishment and Move Due Process of law and now add this under AR 740 and 14th Amendment to receive a answer in a timely manner to marshal the facts and respond to my appeal per AR 740. of Due process of Law.

Original: Attached to Grievance
 Pink: Inmate's Copy

**NEVADA DEPARTMENT OF CORRECTIONS
MEMORANDUM**

TO: Mizzoni, Joseph 68549

FROM: Lisa Walsh, AWP/NNCC

DATE: 7/8/2015

SUBJECT: Improper Grievance #: 20062999675

The attached grievance is being returned to you for the following reason(s):

- ☐ Non-Grievable issue:
- ☐ State and Federal court decisions
 - ☐ State, Federal, and local laws and regulations
 - ☐ Parole Board Decisions
 - ☐ Lacks Standing
- ☐ Untimely submission
- ☐ No remedy noted
- ☐ Abuse of Inmate Grievance Procedure
- ☐ Any language, writing or illustration deemed to be obscene, profane, or derogatory
 - ☐ A threat of serious bodily injury to a specific individual
 - ☐ Specific claims or incidents previously filed by the same inmate
 - ☐ More than four (4) unfounded, frivolous or vexatious grievances per month
 - ☐ Allegations proven to be false
- ☐ The grievance contains more than one incident, issue, etc.
- ☒ Other; Specify: 3098 – You must attach the Informal and First Level of this grievance.
- _____
- _____
- _____

You may resubmit your grievance after correcting the above deficiencies. Failure to re-submit the grievance through the prescribed timeframe shall constitute abandonment.


Witness Signature Date:

Cc: Original – Inmate

Inmate Signature Date:

Copy – Grievance File

DOC-3098 (10/03)

INMATE REQUEST FORM

1.) INMATE NAME	DOC #	2.) HOUSING UNIT	3.) DATE
Joseph Mizzoni	68549	7-B-62	4-5-15

4.) REQUEST FORM TO: (CHECK BOX)☐ MENTAL HEALTH☐ CANTEEN☐ CASEWORKER☐ MEDICAL☐ LAW LIBRARY☐ DENTAL☐ EDUCATION☐ VISITING☐ SHIFT COMMAND☐ LAUNDRY☐ PROPERTY ROOM☒ OTHER WARDEN MS. WALSH5.) NAME OF INDIVIDUAL TO CONTACTMS WALSH (Please Return all Video/Still pictures)6.) REQUEST (PRINT BELOW)

MAN, I am in 7-B-62 I went to a hearing on 4-4-15 and Received my Notice of charges and was read everything in C/O Smiths Versing Unit 5 on 3-28-15 he said he order inmates to lock it up and they did, then he said he ordered "several" inmates to get back because his retunda was full of other inmates. AT the hearing I requested those inmates in the retunda and around myself and C/O Smiths NAMES or Affidavits to or any other inmates version of events to be at my disciplinary. Also please request all video/still pictures from inside Unit 5 to 7-A-38 on 3-28-15 in order to confront witness and evidence with charges against me man. Thank You

7.) INMATE SIGNATUREJoseph Mizzoni

DOC #

685498.) RECEIVING STAFF SIGNATURE

DATE

9.) RESPONSE TO INMATEAdhere to the process10.) RESPONDING STAFF SIGNATURERev

DATE

4/1/17